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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 16 November 2004 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Committee

Further to my letter of 28 May 2004, I hereby forward my country's report in relation to the implementation of Security Council resolution 1455 (2003) (see annex).

(*Signed*) Claude **Morel**
Ambassador
Permanent Representative

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Annex to the letter dated 16 November 2004 from the Permanent Representative of Seychelles to the United Nations addressed to the Chairman of the Committee

The commitment of the Republic of Seychelles in combating terrorism is evident in the Prevention of Terrorism Act 2004. The Act seeks to enhance the ability of the Republic of Seychelles to combat terrorism. Seychelles recognizes that acts of terrorism and terrorist organizations threaten the political and economical stability of countries, the rule of law and right of persons to live in peace, freedom and security.

In that respect, the Republic of Seychelles stands ready to cooperate with the Committee in drafting the report on measures taken to implement resolution 1455 (2003).

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

To date there has been no known activities by Usama Bin Laden, Al-Qaida, Taliban and their associates carried out in the Republic of Seychelles.

II. Consolidated List
(to be circulated to member states every three months)

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The 1267 Committee's lists are circulated to all relevant authorities. Commercial banks are advised to take appropriate measures such as blocking and freezing accounts. During on-site inspections of the Commercial banks, examiners from the bank supervision division of the Central Bank of Seychelles verify the bank's records to see whether any such accounts do exist.

The Prevention of Terrorism Act 2004 forms the legal basis to provide measures to prevent and suppress terrorism and for connected matters. Under S35(1) of the Act every person is required to disclose to the Commissioner of Police the existence of any property in his or her possession or controlled by or on behalf of a terrorist group. Section 35(2) stipulates that every financial institution is required to submit a report to the Central Bank every three months certifying that they are in possession or control of any property owned or controlled by or on behalf of a terrorist group, and the particulars relating to such persons, accounts and transactions.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

No problems of implementation with regard to the names currently included in the list have been encountered so far.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date no designated individuals or entities have been identified inside the Republic of Seychelles.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

There is none.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

So far no listed individuals have brought lawsuits or engaged in legal proceedings against the authorities of Seychelles.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No resident of Seychelles have appeared on the designated list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The Prevention for Terrorism Act 2004 (PTA) provides the legislative framework to deal with acts of terrorism. This law is also interpreted to include recruitment to terrorist groups.

The following sections of the PTA have been laid down so as to prevent entities and individuals from recruiting or supporting Al Qaida members (and any other terrorist's organisation) in carrying out activities inside Seychelles.

Under S5 of the Act every person who collects by any means, directly or indirectly, any funds, knowing or having reasonable grounds to believe that the funds will be used in full or in part to carry out a terrorist act, commits an offence.

S6 states that every person who directly or indirectly, collects property or provides, invites a person to provide or makes available, property or financial or other related services-

(a) intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act or for the purpose of benefiting any person who is committing or facilitating the commission of a terrorist act: or

(b) knowing that in whole or in part, they will be used by: or will benefit a terrorist group

is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Section 7 Every person who-

(a) uses property, directly or indirectly, in whole or in part for the purpose of committing or facilitating the commission of a terrorist act: or

(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,

is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Section 8 Every person who knowingly enters into, or becomes concerned in arrangement which facilitates the retention or control by or on behalf of another person of terrorist property-

(a) by concealment

(b) by a removal out of jurisdiction

(c) by transfer to a nominee or

(d) in any other way

is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Section 9(1) Every person who knowingly-

(a) deals, directly or indirectly, in any property that is owned or controlled by or on behalf of a terrorist group

(b) enters into, or facilitates directly or indirectly any transaction in respect of property referred to in paragraph (a) or

(c) provides financial or other services in respect of property referred to in paragraph (a) at the direction of a terrorist group

is guilty of an offence and shall on conviction, be liable to imprisonment for a term not less than 7 years and not more than 20 years.

(2) A person who acts reasonably in taking or omitting to take measures to comply with subsection (1) shall not be liable in any civil action arising from having taken or omitted to have taken those measures if the person proves that he or she took all reasonable action to satisfy himself or herself that the relevant property was not owned or controlled by or on behalf of a terrorist group.

S10 (1) states that every person who knowing solicits supports for or gives support to any terrorist group or gives support to the commission of a terrorist Act is guilty of an offence.

Section 11 Every person who harbours or conceals or prevents, hinders or interferes with the apprehension of any other person knowing or having reason to believe that such other person-

(a) has committed a terrorist act or

(b) is a member of a terrorist group

is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Section 12 Every person who knowingly offers to provide or provides any weapon to-

(a) a terrorist group

(b) a member of a terrorist group

(c) to any other person for use by or for the benefit of, a terrorist group or a member of a terrorist group

is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Section 13 Every person who knowingly agrees to recruit, or recruits, another person-

(a) to be a member of a terrorist group or

(b) to participate in the commission of a terrorist act

is guilty of an offence and shall on conviction be liable to imprisonment for a term not less than 7 years and not more than 20 years.

Under s15, every person who promotes or facilitates terrorism in foreign states is guilty of an offence. S18 (1) states that every person who is a member or who professes to be a member of a terrorist group is guilty of an offence.

In addition the provision under the Penal Code (Cap 158) subscribe to the legislative framework against financing of terrorist acts and the Anti-Money Laundering Act 1996 in particular prohibits the receiving, keeping of funds obtained through indulgence of an act prohibited by law.

III. Financial and Economic Assets Freeze

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2(a) of resolution 1390 (2002)), States are to freeze without delay the. funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or. controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

- **the domestic legal basis, to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

The domestic legal basis to implement the asset freeze is in line with the duties and responsibilities of the Attorney General with the main provisions under the prevention of Terrorism Act 2004 and Anti-Money Laundering Act 1996. And the Central Bank is the Seychelles Monetary Authority and as such is the regulating authority for activities in the financial sector.

Under s26(1) of the Prevention of Terrorism Act, the Commissioner of Police may seize the property if he has reasonable grounds for suspecting that any property has been or is being used to commit an offence under the Act.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban- related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Central Bank of Seychelles monitors Commercial Banks and other financial institutions. They work in close collaboration with the police authority and report of any unusual financial or transactions involving large sums of money.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversights.

Under the Anti-Money Laundering (AML) Act 1996 and the Guidance Notes on AML Procedures for Seychelles Banks and Financial institutions issued by the Central Bank in 1998, all financial institutions are required to take the necessary measures to properly identify all prospective clients. As part of the required due diligence procedures, banks need to request and maintain proper identification documents such as identity cards, passports, driver's license, etc. Furthermore, the opening of accounts by post or telephone is not encouraged. Copies of all records of documents and transactions need to be kept for at least five years. Continuous ongoing monitoring of accounts as well as the application of KYC principles should be applied. Adherence to these requirements is verified during on-site examinations conducted by examiners from the Bank Supervision Division. Additionally, the examiners also review the internal guidelines on AML of the local banks during the examination.

List of designated terrorists and terrorist groups received are circulated to all the commercial banks that are required to confirm in writing whether they maintain accounts in the names specified on the lists. The banks are advised to take measures such as freezing or blocking such accounts. Verification that the banks do not maintain accounts of the designated individuals/groups is carried out during on-site examination of the banks.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

No assets have been frozen so far.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

No assets have been frozen so far.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as – or similar to – "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Lists of designated terrorists and terrorist groups received are circulated to all the commercial banks licensed by the Central Bank of Seychelles and they are required to confirm in writing whether or not they maintain accounts in the names of the individuals/groups. They are also advised to take measures such as freezing or blocking such accounts.

Under s5(1) of the AML Act 1996, financial institutions are required to submit a Suspicious Transaction Report (STR) to the Central Bank of Seychelles where they have reasonable grounds to believe that a suspected case of money laundering is being committed. Officers from the Bank Supervision Division, who have received extensive training on AML overseas, review the STRs. Upon being satisfied that a case of money laundering does exist, the Central Bank informs the Commissioner of Police in accordance with the requirements of the s5(3) of the AML Act.

Section 35 of the Prevention of Terrorism Act makes provision for financial institution to make a report to the Central Bank every three months. The said report must state

(i) that the financial institution is not in possession or control of any property owned or controlled by or on behalf of a terrorist group

(ii) that the financial institution is in possession or control of such property , and the particulars relating to the persons, accounts and transactions involved and the total value of the property.

Furthermore subsection 3 of section 35 provides that 'in addition to the requirements of subsection (2), every financial institution shall report to the Commissioner of Police every transaction which occurs within the course of its activities in respect of which there are reasonable grounds to suspect that the transaction is related to the commissioner of a terrorist act'.

The large scale trade in diamonds, precious stones and precious metals does not exist in Seychelles. However, to trade in diamonds, one needs an import or export permit which is granted by the Import Controller. Under s1 (1) of Part 1 of the Exchange Control Act, unless authorized by the Minister, no person in Seychelles is permitted to buy, sell or borrow any gold.

Current legislation does not provide for the existence of money remittance or alternative transfer services.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002)

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The list is circulated to all the entry points, where immigration officials check to ensure that no listed individual is attempting to enter the Republic of Seychelles.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Since the Seychelles has no common border with other countries, the names are normally circulated to the relevant entry points i.e. sea port and airport. The agencies involved at entry check points work jointly to monitor the 'stop list'. So far no problems have been encountered in the Seychelles.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The updated list is sent to control point as soon as they are received. A stop list is kept at the control points in both electronic and manual format.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date no listed individuals has so far attempted entry or transited through the Seychelles.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Seychelles is currently in the process of incorporating the list in the reference database of its Consular Offices. To date no visa applicant whose name appears on the list has been identified.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of Al-Qaeda organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama Bin Laden, members of the Al Quid organization and the Taliban and other individuals, groups' undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Republic of Seychelles has ratified the following:-

- Agreement between the Republic of Seychelles and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons.
- Protocol Additional to the Agreement between the Republic of Seychelles and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons.
- Un Convention for the Suppression of terrorist Bombings
- Convention on the Prevention and Combating of Terrorism
- Convention on the Physical Protection of Nuclear Materials
- Treaty on the Non-Proliferation of Nuclear Weapons
- ICAO Convention on the Marking of Plastic Explosives for the purpose of detection
- Comprehensive Test Ban Treaty
- Chemical Weapons Convention-The process of drafting the necessary legislation to give effect to the Convention is also underway.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them.

There are no measures that have been taken to specifically criminalize the violation of arms embargo directed at Usama Bin Laden and other terrorist's individuals or entities. However section 12 of the Prevention of Terrorism Act does make it an offence for a person to provide, any weapon to a terrorist group or members of a terrorist group.

Furthermore s26(1) of the Firearms and Ammunition Act provides that 'no person shall import or export any firearm or ammunition save under and in accordance with the terms of an import or export permit, as the case may be issued by an authorized officer'.
Section 12 of the PTA and Section 26 of the Firearms and ammunition Act will render it a criminal offence if any person in Seychelles were to supply Al Qaida or any other terrorist organization with arms.

22. Please describe how your arms/arms broker licensing system if any, can prevent Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

It is the policy of the Government of Seychelles not to issue any arms/arms brokering license.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

At present under the laws of Seychelles more specifically Section 9(1) of the Firearms and Ammunition Act 'no person shall manufacture any firearm or ammunition save on behalf of the government and at a place established or designated for the purpose by and in accordance with instructions to be issued by, the Minister'.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Assistance and co-operation can be provided under the Mutual Assistance in Criminal Matters Act 1996. Furthermore the Seychelles Police Force remains ready to share information with the law enforcement agencies of other countries to prevent terrorist acts and in case a terrorist act occurs, to co-operate with them to arrest and to bring those responsible to justice.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

The law enforcement agency are currently not adequately staffed and trained in the investigation of cases of money laundering and as such, will require technical assistance in this field. Technical Assistance in terrorist financing should also be made available to the Staff of Bank Supervision Division as well as law enforcement officers.

26. Please include any additional information you believe pertinent.